

Message Text

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ACTION NEA-10

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FOR NEA/EGY

E.O. 11652: N/A
TAGS: BDIS, ETRD, EG, US
SUBJECT: PETROLEUM: LVO CASE

REF: CAIRO 14299

1. IN RESPONSE TO OUR DEMARCHE TO EGYPTIAN GENERAL PETROLEUM CORPORATION(EGPC) CHAIRMAN RAMZI LEITHY (REFTEL), EGPC AGREEMENTS DIRECTOR AND LEGAL COUNSEL ASKED EMBOFF TO CALL AUGUST 31 TO DISCUSS LVO PROBLEM. FOLLOWING IS ACCOUNT OF CANDID 90-MINUTE CONVERSATION DURING WHICH POSSIBLE RESOLUTION OF PROBLEM EMERGED. FURTHER REPRESENTATION TO GOE WILL, HOWEVER, BE NECESSARY.

2. IBRAHIM RADWAN, DIRECTOR, EGYPTIAN GENERAL PETROLEUM CORPORATION AGREEMENTS DEPARTMENT (HE IS AUTHOR OF EGPC'S BASIC EXPLORATION/PRODUCTION SHARING AGREEMENT AND HAS NEGOTIATED ALL 45 OF EGPC'S AGREEMENTS WITH FOREIGN OIL COMPANIES SINCE 1973) AND EGPC'S LEGAL COUNSEL ASKED EMBOFF TO CALL ON SHORT NOTICE TO DISCUSS OUR APPROACH, MADE AUGUST 29 TO EPGC CHAIRMAN RAMZI LEITHY, ON LVO PROBLEM. RADWAN BEGAN BY EMPHASIZING THAT GOE HAD BEEN VERY PLEASED WITH NATIONAL COUNCIL OF FARMERS COOPERATIVES EXPRESSED INTEREST IN
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CONCESSION IN EGYPT AND HAD CONSIDERED ASSIGNMENT OF AGREEMENT FROM ORIGINAL PEXPAC (MALAYSIAN) GROUP TO LVO AS MAJOR ACCOMPLISHMENT. RELATIONS WITH LVL THROUGHOUT EXPLORATION PHASE WERE VERY CORDIAL. LVO HAD FULFILLED, AND EVEN EXCEEDED, ITS EXPLORATION COMMITMENT UNDER AGREEMENT AND EGPC SATISFIED WITH AND GRATEFUL FOR THEIR PERFORMANCE.

3. RADWAN EXPLAINED THAT SOME WEEKS PRIOR TO LVO REQUEST FOR DISPOSITION OF ASSETS NOW IN QUESTION (\$750,000 WORTH OF WELL-CASING PIPE), RUMORS BEGAN TO CIRCULATE THAT LVO WAS PLANNING TO CEASE OPERATIONS. BY TIME LVO OFFICIALLY INFORMED EGPC OF ITS INTENTIONS, IT WAS WELL KNOWN THROUGHOUT OIL COMMUNITY THAT EXPLORATION COMMITMENT HAD BEEN MET AND THAT COMPANY INTENDED EVENTUALLY TO TERMINATE AGREEMENT. LVO SUBSEQUENTLY INFORMED EGPC OF ITS INTENTION NOT TO CONTINUE TO PURSUE EXPLORATION IN SAME WRITTEN COMMUNICATION IN WHICH IT OFFICIALLY ASKED FOR DISPOSITION OF PIPE. RADWAN EXPLAINED THAT EGPC WAS (AND IS) SYMPATHETIC TO LVO'S REQUEST TO DISPOSE OF ASSETS. LVO ORIGINALLY HAD, HOWEVER, OFFICIALLY DECLARED PIPE AS PART OF EXPENSES IN FULFILLMENT OF AGREEMENT, THUS MAKING THEM PART OF ASSETS WHICH WOULD REVERT TO EGPC AT THE TERMINATION OF THE AGREEMENT.

4. CRUX OF PROBLEM FOR EGPC IS ARTICLE EIGHT OF AGREEMENT WITH LVO. ACCORDING THAT ARTICLE, "...FULL TITLE TO ALL ASSETS REVERTS TO EGPC WHEN TOTAL COST HAS BEEN RECOVERED OR AT TIME OF TERMINATION OF AGREEMENT, WHICHEVER COMES FIRST." OBVIOUSLY, LEGAL COUNSEL POINTED OUT, WITH LVO'S DECLARED INTENTION TO TERMINATE AGREEMENT (ALTHOUGH NO DATE SPECIFIED) EGPC WOULD GET TITLE TO ALL ASSETS. RADWAN EXPLAINED THAT ANY OFFICIAL WHO TOOK DECISION TO RELEASE ASSETS WHICH, ACCORDING TO AGREEMENT, WOULD REVERT TO EGPC, WOULD BE LIABLE TO SERIOUS QUESTIONING (AND PROBABLY PROSECUTION) BY SOLICITOR LIMITED OFFICIAL USE

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GENERAL WHEN AUDIT OF CURRENT YEAR'S TRANSACTIONS TAKES PLACE. HAD LVO FIRST REQUESTED DISPOSITION OF PIPE AND THEN ANNOUNCED INTENTION TO STOP EXPLORATION ACTIVITY, WHOLE PROBLEM WOULD HAVE BEEN MUCH LESS DIFFICULT. AS IT STANDS, RADWAN CONFESSED, THERE IS NO ONE IN EGPC WHO FEELS HE CAN TAKE DECISION TO ALLOW LVO TO DISPOSE OF PIPE. POLITICAL ELEMENT ADDED BY USG'S RAISING MATTER INDICATES ONLY MINISTER OR "EVEN HIGHER AUTHORITY" COULD RESOLVE PROBLEM.

5. LEGAL COUNSEL FURTHER POINTED OUT THAT EGPC'S AGREEMENTS WITH OIL COMPANIES ARE OF TWO TYPES. ONE, LIKE LVO'S, PROVIDES FOR DEPRECIATION AND EVENTUAL TURNOVER OF ASSETS TO EGPC. OTHER, LIKE ARCO'S, PROVIDES FOR EGPC'S IMMEDIATE TITLE TO ALL ASSETS AS SOON AS THEY ARE LANDED IN EGYPT. OBVIOUSLY SECOND CATEGORY POSES NO PROBLEM. BECAUSE LVO IS INITIAL CASE OF AN INTENDED CLOSEOUT IN FIRST CATEGORY OF AGREEMENTS, HOWEVER, EGPC BELIEVES IT IS TAKING IMPORTANT PRECEDENT-SETTING DECISION.

6. ONE FURTHER COMPLICATING FACTOR THAT EMERGED DURING CONVERSATION IS THAT LVO OVEREXPENDED ON ITS EXPLORATION COMMITMENT BY ABOUT ONE MILLION DOLLARS, MAKING VALUE OF PIPE, THEREFORE, ALMOST EQUAL TO EXCESS EXPENDITURE.

EGPC REALIZES THIS FURTHER SUGGESTS THAT FAVORABLE CONSIDERATION OF LVO'S REQUEST IS IN ORDER. RADWAN REEMPHASIZED, HOWEVER, FEAR OF CRITICISM WHICH HE, AND OTHERS AT HIS LEVEL, WOULD COME UNDER IF THEY RELEASED ASSETS IN LIGHT OF IMMINENT TERMINATION OF AGREEMENT.

7. RADWAN EXPRESSED REGRET THAT PROBLEM HAD ARISEN IN THIS MANNER AND ESPECIALLY THAT IT HAD BECOME MATTER OF GOVERNMENT-TO-GOVERNMENT DISCUSSIONS. HE CONCLUDED THAT ONLY MINISTER HILAL COULD TAKE DECISION TO ALLOW LVO TO DISPOSE OF PIPE, DECISION WHICH HE REITERATED EGPC FAVORED FROM START, BUT ON WHICH IT COULD NOT FOLLOW THROUGH.

8. COMMENT: BELIEVE EGPC OFFICIALS ARE BEING CANDID WITH LIMITED OFFICIAL USE

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US REGARDING BACKGROUND OF LVO CASE. WHILE BOTH SIDES CAN CONCEIVABLY CLAIM LEGAL BASIS FOR THEIR POSITION, IT APPEARS THAT DECISION WAS MADE PRIMARILY BECAUSE OF EGPC FEAR OF POSSIBLE CHARGES OF COLLUSION WITH COMPANY. EXPRESSED CONCERNS ON CORRUPTION CHARGES ARE PROBABLY REAL; EGPC HAS BEEN VICTIMIZED OVER PAST TWO YEARS BY DISAFFECTED FORMER EMPLOYEES WHO HAVE GAINED PRESS ATTENTION BY CHARGING CORRUPTION (USUALLY FALSELY). LATEST EXAMPPLE OF SUCH CHARGE IS VOLUMINOUS LETTER SENT TO PRESIDENT SADAT BY GEOLOGIST, WHO IS NOW WORKING IN ABU DHABI. BOTH RADWAN AND LEGAL COUNSEL SAY THEY HAVE SPENT PAST TEN DAYS WORKING ON REPLY TO THOSE CHARGES AND SO ARE UNUSUALLY SENSITIZED TO PROBLEM.

9. OBVIOUSLY ONCE WE HAVE GONE TO BAT FOR AMERICAN COMPANY, WE WOULD HAVE TO RESPOND POSITIVELY TO OTHER REQUESTS FOR ASSISTANCE IN SIMILAR PROBLEMS, AND ONCE EGPC HAS GIVEN IN ON THIS CASE IT WILL BE DIFFICULT FOR THEM TO HOLD LINE AT LATER DATE. DECISION IS THEREFORE SENSITIVE ONE FOR THEM TO TAKE. WHILE WE BELIEVE GOE MIGHT WELL AGREE EVENTUALLY TO CHANGING DECISION, UNDER PRESSURE FROM US, IT POSSIBLE THAT NOT ONLY MINISTER HILAL BUT PRIME MINISTER AND EVEN PRESIDENT MIGHT HAVE TO BE INVOLVED. WE ARE PREPARED TO GO THIS ROUTE, BUT LEAVE TO DEPARTMENT FINAL DECISION WHETHER TO TAKE CASE TO NEXT HIGHER LEVEL, I.E., AMBASSADOR CALLING ON MINISTER OF PETROLEUM HILAL. (HILAL, AS REPORTED EARLIER, WILL PROBABLY NOT BE AVAILABLE UNTIL AFTER RAMADAN HOLIDAYS, I.E., MIDDLE OF SEPTEMBER.)

10. PLEASE ADVISE.
EILTS

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